IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 10TH APRIL 2007 / 20TH CHAITHRA 1929

Crl.MC.No. 1144 of 2007()

CC.600/2003 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, DEVICOLAM

.....

PETITIONER: ACCUSED

JAIMON, AGED 30 YEARS, S/O. ACHUTHAN,
VELAMMAVUKUDIYIL HOUSE, KALLUKUNNU KARA,
KATTAPPANA.

BY ADV. SRI.TOMY THOMAS (KUZHUPPILLY)

RESPONDENTS: STATE

STATE OF KERALA, REPRESENTED BY
THE SUB INSPECTOR OF POLICE, KATTAPPANA POLICE
STATION, IDUKKI DISTRICT, THROUGH PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

Crl.M.C.No. 1144 of 2007

- -

Dated this the 10th day of April, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the N.I. Act. Proceedings were initiated as early as in 2003. According to the petitioner, he has very valid defence to urge in the prosecution. He had apprised the complainant of his defence that he is not responsible for the cheque. The complainant had promised to withdraw the complaint. But he has not withdrawn the complaint and hence the petitioner finds himself in an unenviable predicament of warrant and coercive processes issued by the learned Magistrate chasing him. The petitioner is willing to appear before the learned Magistrate. He apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to the learned Magistrate to release the petitioner on bail.

2. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances

under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

3. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

tm